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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,102	03/02/2002	Alex G. Zeif	20110/00401	4425
30636	7590	11/16/2004	EXAMINER	
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			ASSOUAD, PATRICK J	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,102

Applicant(s)

ZEIF, ALEX G.

Examiner

Patrick J. Assouad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/18/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-24 and 34-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-24 and 34-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/2/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/27/02 and 4/15/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species III (claims 18-24) in the reply filed on 10/18/04 is acknowledged. Claims 1-17 and 25-33 have been cancelled by the Applicant. Thus, claims 18-24 and new claims 34-46 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-24 and 34-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Musafia et al.(US 2002/0038235-a1) in view of either Lin et al. ("A PC-based Real Time Measurement System for Factory Automation on quality Control and Production Control, IEEE, 1989) or Szabados ("Intelligent Monitoring System Used to Control Asynchronous Production Systems", IEEE, 19-20 May 2001).

4. Musafia et al. disclose:

A production monitoring system collects an array of data related to employee productivity, wages, supply usage, costs, desired profits, overhead, customer information, and other information pertinent to operating a manufacturing operation of service industry. The data is analyzed to derive a variety of productivity values such as average worker efficiency, production incentives, material costs, supply waste, and others. The system audits productivity data entered by workers, and sounds alarms when the data appears to be incorrect. Supply usage rates are calculated and additional supplies are automatically ordered. Estimated prices and delivery times are determined based on historical data and user-supplied safety margins and profit margins. [Abstract, with emphasis added]

5. Figures 1-2 of Musafia et al. are reproduced below.

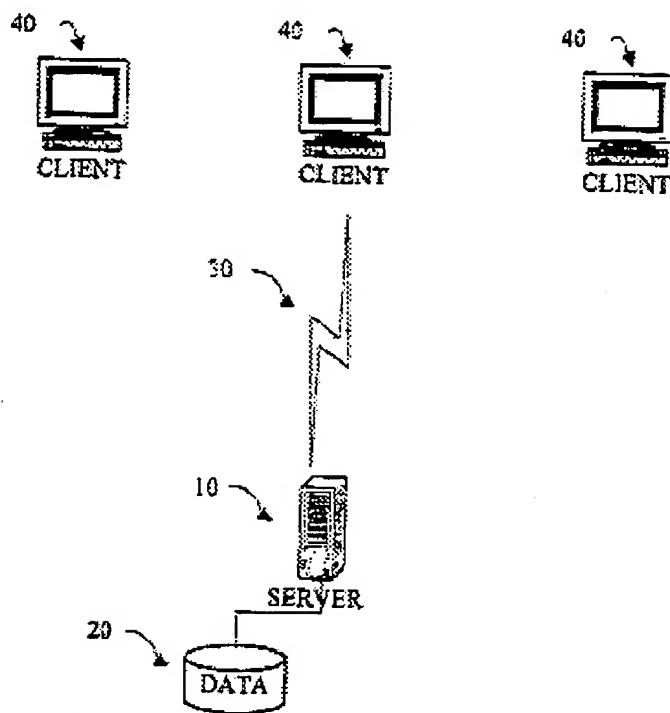


FIG. 1

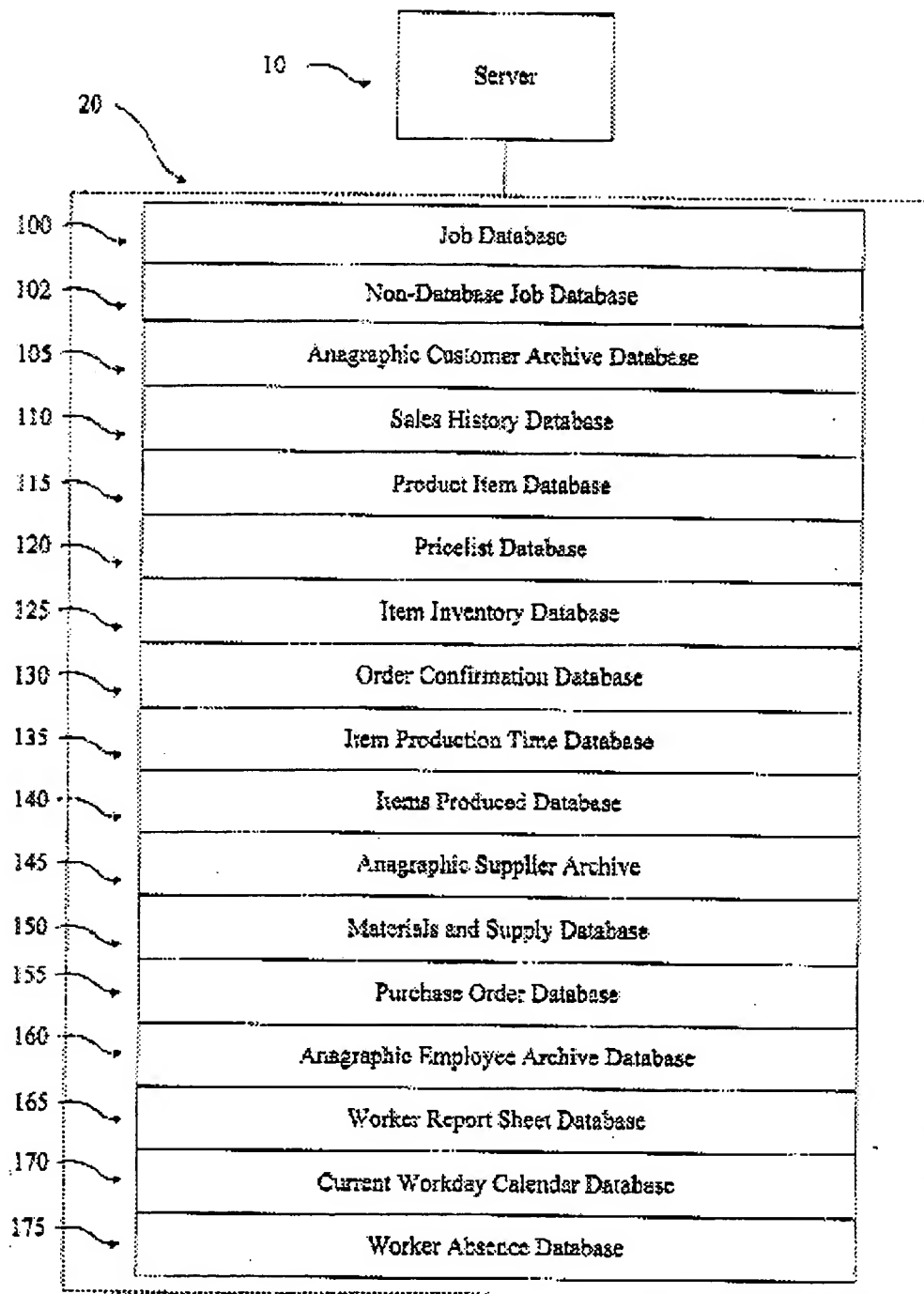


FIG. 2

6. The association between the instant claimed invention (independent claims 18 and 43) and Musafia et al. is as follows:

a) "collecting real time material information from a production line"; see at least the data collected from a production line and then stored in the materials and supply database 150;

b) "analyzing the real time material information to determine a material cost"; see at least the purchase order database which includes materials and supplies and prices and/or the product item database which contains a listing of all materials and supplies necessary to manufacture a production item and/or the materials and supply inventory database which contains inventory and cost information of all materials and supplies required to manufacture a product;

c) "collecting real time operator information from the production line"; see at least the numerous worker-related production data collected from a production line, and then stored in at least worker report sheet database 165;

d) "analyzing the real time operator information to determine an operator cost"; see at least the worker cost of labor parameter or other numerous worker cost parameters;

e) "collecting real time equipment information from the production line"; see at least the supply or equipment-related data collected from a production line and then stored in at least the materials and supply inventory database;

f) "analyzing the real time equipment information to determine an equipment cost" and "collecting real time indirect cost information from the production line"; and "analyzing the real time indirect cost information to determine an indirect cost"; see at least the numerous cost calculations involved in production which include labor, materials, supply, hidden cost corrections, overhead cost expenses, target profit margin parameter, salaries, salary incentives, foreign currency conversions, etc.

g) "determining an actual production cost as a function of the material cost, the operator cost, the equipment cost and the indirect cost"; and "generating cost comparison data as a function of the actual production cost and a scheduled production cost"; see at least the numerous comparison reports of actual versus scheduled production data between different periods, trends, etc.;

l) "generating a productivity report based on the time analyzed operator information and equipment information"; see at least the numerous reports involving operator and equipment information, including the worker productivity reports, individual plant productivity reports, etc.

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7. Also most notable from the Summary of the Invention of Musafia et al., with respect to “costs”:

[0010] In accordance with still other aspects of the invention, the use of multiple cost databases, linked to user-determined and computer-determined parameters, permits cost estimates for jobs to be calculated based on a target profit.

[0012] In accordance with still other aspects of the invention, the use of multiple cost databases, linked to user-determined and computer-determined parameters, allows the monitoring of the use of materials and supplies on the production line to determine flawed or inaccurate supplies or wasteful or inaccurately planned manufacturing processes.

[0013] In accordance with yet other aspects of the invention, the system monitors and analyzes item production statistics with the ability to compare current data with historical values and make future projections.

[0014] In accordance with yet other aspects of the invention, the system monitors and analyzes the labor time necessary for all jobs involved in manufacture, identifying production flaws and the cost of the flaws to the production process.

[0015] In accordance with yet other aspects of the invention, the system monitors and analyzes both general plant productivity and each worker's personal productivity with period-to-period comparison, identifying, monitoring, and cost-quantifying inefficiently used labor as well as the incidence of non-productive labor.

8. The differences between the instant claimed invention (independent claims 18 and 43) and that of Musafia et al. lie in the actual depiction or description of a “production line” and the necessary or requisite sensory equipment, and the “real time” aspect of the instant claimed invention.

9. Fig. 1 of Musafia et al. shows a block diagram of their productivity monitoring system. All of the production monitoring data is being collected and/or has been collected by various inherent sensory equipment residing within a production line

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elsewhere, and this production data is all located in memory 20 connected to server 10 of Fig. 1.

10. The need for remote acquisition of "real-time" factory production line data from a variety of sensory equipment residing at or near a production line was recognized at *least fifteen years ago*. Lin et al. disclose :

ABSTRACT -- This paper presents a real time measurement system for factory automation to improve the operation of quality control and production control. The factory under study has multiple production lines in separate areas. Functions of the proposed system is to monitor quantities of all check points in production line; to calculate exact work-man-hour during production; to measure all characteristic test data; and then to convert the measurement data into analytical statistics. A local measurement unit (LMU) is designed using Z-80 micro processor, which handles all operational functions. The LMU is capable of by-pass data transmission and cascade expansion for larger factory arrangements. The main system is designed with a PC-XT micro computer for data storage and analysis. In this paper, system analysis together with the automatic testing procedures and the time-sharing programming are presented. Significant improvement in operation efficiency and labor reduction for quality control and production control is achieved. It is a very practical design for real time applications in factor automation for labor-dependent production lines.

Key Words: Factory Automation, Real Time Measurements, PC-based Control.

11. Lin et al. also clearly discuss the actual production line of a factory and show the actual requisite sensory equipment needed for real-time remote data acquisition. See at least Figs. 1 and 6 of Lin et al. reproduced below.

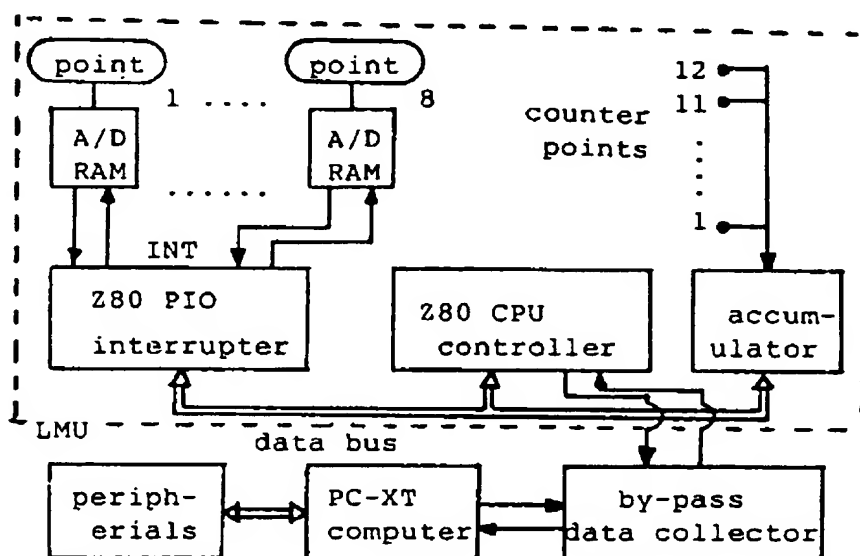


Figure 1. The proposed PC-based real time factory automation measurement system.

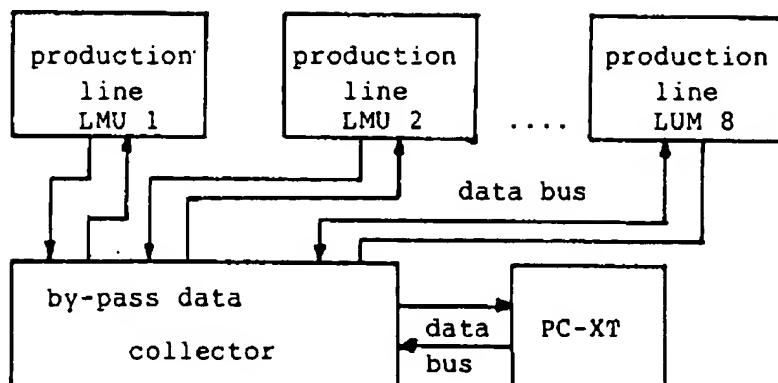


Figure 6. Operation of by-pass data collector with LMU's and micro computer.

12. Szabados also discloses an intelligent monitoring system used to control remote asynchronous production systems. More particularly, he discloses:

Abstract: A large amount of information is required to effectively manage a flexible asynchronous production system, such as a Car Assembly Plant in Oshawa, Ontario. Such system is highly influenced by human factors. An Intelligent Production Monitoring System (IPMS) was developed specifically for this production system. IPMS is a medium for presenting a vast amount of relevant, real-time and historical production information to the Car Plant management staff. Together with the standard predictive on-line models it allows experienced supervisory staff to arrive at operational decisions during shifts.

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13. Most noteworthy is that a “vast amount of relevant, real-time and historical production information” is gathered.

14. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the acquisition of production and other production-related data in “real-time” as taught by either Lin et al. or Szabados, into the “productivity monitoring system and method” of Musafia et al., because such a combination provides production managers a “bird’s eye view” (Szabados, pg. 35) of a plant in real-time, and also provides significant improvements in operations and labor management and efficiency and trend-forecasting, in an omnipresent quality and cost-conscious environment (Lin et al., pg. 57).

15. Note that *motivation* may also be explicitly found in the Summary of the Invention of Musafia et al., where we see [with emphasis added]:

[0003] The provision of a service or the production of a product often includes a number of tasks that must be performed, often in series. Particularly for products and services that are produced in quantity, the effort required to perform the predetermined tasks can be monitored to analyze many factors related to production. Over time, the collection of production data allows the calculation of expected costs, times, and other production aspects. As production continues, current values can be compared with expected values to assess whether individual workers or the system as a whole is progressing efficiently. . .

[0005] The present invention comprises a system and method for monitoring and optimizing product or service output and worker productivity for a business in which products and services are produced in a manner that involves a plurality of tasks and which can include multiple workers involved simultaneously in the manufacture of a single product. Productivity is optimized by the collecting, analyzing, and reporting a variety of data...

[0013] In accordance with yet other aspects of the invention, the system monitors and analyzes item production statistics with the ability to compare current data with historical values and make future projections.

[0014] In accordance with yet other aspects of the invention, the system monitors and analyzes the labor time necessary for all jobs involved in manufacture, identifying production flaws and the cost of the flaws to the production process.

[0015] In accordance with yet other aspects of the invention, the system monitors and analyzes both general plant productivity and each worker's personal productivity with period-to-period comparison, identifying, monitoring, and cost-quantifying inefficiently used labor as well as the incidence of non-productive labor.

16. And most notable is paragraph [0021] of Musafia et al. with emphasis added by the Examiner:

[0021] The linkage of all the above aspects of manufacturing into one management program allows a complete and real time control over profit generation unattainable by standard accounting procedure or by other methods available.

17. As per dependent claims 19-24, and 34-46, which relate to “analysis” and then “comparison” of numerous other production-related data, see at least the numerous types of production and production-related data gathered and extensively processed by Musafia et al. in at least Fig. 2 (reproduced above), or see the numerous production data and statistics gathered and processed of Lin et al., or see the “vast amount of relevant, real-time and historical production information” of Szabados.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the attached PTO-892.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Assouad whose telephone number is 571-272-2210. The examiner can normally be reached on Tuesday-Friday, 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick J Assouad
Primary Examiner
Art Unit 2857

pja